IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2755 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE KSHITIJ R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BHALCHANDRA KRISHNALAL KANUNGA

Versus

MUNICIPAL COMMISSIONER

Appearance:

1. Special Civil Application No. 2755 of 1992

MR SV BACHANI for Petitioner No. 1

MR PRASHANT G DESAI for Respondent No. 1

CORAM : MR.JUSTICE KSHITIJ R.VYAS

Date of decision: 06/02/2003

ORAL JUDGEMENT

The petitioner, in this petition under Article 227 of the Constitution of India, has challenged the

order dated 13.1.1992 passed by the Labour court, Baroda in Recovery application No.290 of 1987 whereby the prayer of the petitioner to grant interest at the rate of 12% has been turned down. It may be stated that the Labour Court has, in all, awarded Rs.25,625.93 ps. being the amount of difference of pay, pension and commutation and Rs.200/- by way of cost.

Learned Counsel for the petitioner submits that there is no justification to deny the amount of interest at the rate of 12% per annum. He has relied upon the decision rendered by this Court in the case of N.R.Joshi v. State of Gujarat and ors., reported in 1984 (1) GLR 146.

I have gone through the reasoning of the learned Judge in para 23 of the judgment wherein it is stated that the petitioner has voluntarily retired on 30th November 1977 and he has preferred the application on 30th April 1987, i.e. after nine years and seven months. Therefore, the petitioner has slept over his rights for all these years. No reasons are assigned by the petitioner explaining the time taken in filing the application after so many years. Under the circumstances, the petitioner is not entitled to claim interest. In my opinion, the reasons assigned by the Labour Court appear to be just, proper and warranting no interference in the petition under Article 227 of the Constitution of India.

The decision cited by the learned Counsel for the petitioner cannot be made applicable to the present case. That was a case of a Primary School Teacher whose provisional pension was fixed at Rs.30/- per month and the Government took about 18 years to finalise the pension. Even though the petition was filed in the year 1977, the Government could not file the reply for six years. Considering the peculiar facts and circumstances of that case, the Court awarded interest at the rate of 12% per annum by holding that non-payment of pension for 18 years is sufficient ground for allowing interest at 12% per annum. In my opinion, the facts of the said case cannot be made applicable to the case on hand.

Since no case is made out for interference of this Court, I see no merit in the petition and it is rejected. Rule discharged. No costs.

(Kshitij R. Vyas, J.)

Sreeram.